

OCT 23 2010

**IN THE UNITED STATES DISTRICT COURT^{By}
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JAMES N. HATTEN, Clerk
[Signature] Deputy Clerk

THOMAS EDWARD JORDAN,	:	PRISONER CIVIL RIGHTS
JR.,	:	42 U.S.C. § 1983
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	1:10-CV-2734-TWT
	:	
THE STATE OF GEORGIA,	:	
Defendant.	:	

ORDER AND OPINION

Plaintiff, Thomas Edward Jordan, Jr., who is currently incarcerated at the Liberty County Jail in Hinesville, Georgia, has filed the instant pro se civil rights action pursuant to 42 U.S.C. § 1983. [Doc. 1]. For the purpose of dismissal only, Plaintiff's request to proceed in forma pauperis [Doc. 2] is **GRANTED**, and the matter is presently before the Court for a 28 U.S.C. § 1915A review.

I. 28 U.S.C. § 1915A Review

Pursuant to 28 U.S.C. § 1915A, a federal court is required to conduct an initial screening of a prisoner complaint to determine whether the action is either: (1) frivolous, malicious or fails to state a claim on which relief may be granted; or, (2) seeks monetary relief against a defendant who is immune from such relief. A claim is frivolous when it appears from the face of the complaint that the factual allegations

are “clearly baseless” or that the legal theories are “indisputably meritless.” Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993). A complaint fails to state a claim when it does not include “enough factual matter (taken as true)” to “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56 (2007) (noting that “[f]actual allegations must be enough to raise a right to relief above the speculative level,” and complaint “must contain something more . . . than . . . statement of facts that merely creates a suspicion [of] a legally cognizable right of action”).

In order to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that: (1) an act or omission deprived him of a right, privilege, or immunity secured by the Constitution of the United States or a federal statute; and (2) the act or omission was committed by a person acting under color of state law. See Hale v. Tallapoosa County, 50 F.3d 1579, 1581 (11th Cir. 1995). If a plaintiff fails to satisfy these requirements or to provide factual allegations supporting a viable cause of action, the claim is subject to dismissal. See Chappell v. Rich, 340 F.3d 1279, 1283-84 (11th Cir. 2003) (affirming district court’s dismissal of a § 1983 complaint because plaintiffs’ factual allegations were insufficient to support the alleged constitutional violation).

II. Plaintiff's Allegations

Plaintiff contends that his due process rights have been violated because he has not yet been considered for parole. According to Plaintiff, he received a five-year sentence and has been incarcerated for seventeen months without being considered for parole. Plaintiff alleges that his sentence indicates that he should be considered for parole after serving one-third of his sentence, which is twenty months. Plaintiff contends that he will not be considered for parole until he is transferred to the state prison system. Plaintiff seeks parole consideration and damages.

III. Discussion

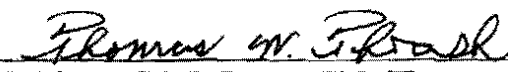
Plaintiff's allegations that his due process rights have been violated because he has not yet been considered for parole fail to state a claim. Inmates have no liberty interest or constitutionally-protected expectation of being paroled in the Georgia parole system. Sultenfuss v. Snow, 35 F.3d 1494, 1499-1501 (11th Cir. 1994). The Georgia Board of Pardons and Parole has broad and unfettered discretion in reaching parole decisions as to each inmate based upon their individual history and circumstances. Id. at 1499-1501. The Board is not required to reach any

particular result in a given case, to adhere to any uniform standard of review, or to abide by the parole guidelines in administering parole. Id. Thus, Plaintiff's allegations that he is entitled to parole consideration fail to state a due process claim. See Jones v. Ray, 279 F.3d 944, 946 (11th Cir. 2001) (holding Georgia inmate has no due process protected liberty interest in parole; affirming district court's dismissal of due process claim as frivolous).

IV. Conclusion

Based on the foregoing, **IT IS ORDERED** that the instant action be **DISMISSED** as frivolous under 28 U.S.C. § 1915A.

IT IS SO ORDERED, this 28 day of October, 2010.


THOMAS W. THRASH, JR.
UNITED STATES DISTRICT JUDGE